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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,337	03/31/2004	John M. de Larios	LAM2P464	8804
25920 7590 12/12/2007 MARTINE PENILLA & GENCARELLA, LLP 710 LAKEWAY DRIVE SUITE 200 SUNNYVALE, CA 94085				
EXAMINER				
GUIDOTTI, LAURA COLE				
ART UNIT		PAPER NUMBER		
3723				
MAIL DATE		DELIVERY MODE		
12/12/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/816,337

Applicant(s)

DE LARIOS ET AL.

Examiner

Laura C. Guidotti

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-11, 13-18, 20, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18, 20 and 29 is/are allowed.
- 6) ☒ Claim(s) 1, 4-8 and 13-17 is/are rejected.
- 7) ☒ Claim(s) 2, 9-11 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-848)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 24 September 2007 has been entered.

Claim Objections

2. Claim 30 is objected to because of the following informalities: Claim 30 depends from Claim 19, however Claim 19 has been cancelled. Does Applicant intend claim 30 to depend from claim 18? Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 8, 13, and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Dole, US 4,205,911.

Dole discloses the claimed invention including an elongated enclosure configured to enclose a brush (52), the elongated enclosure being configured to be disposed above a horizontal surface of a substrate (it is capable of being configured in such a manner), the elongated enclosure having opposite ends defining a length and having an open region along the length of the elongated enclosure (see Figures 1-2), the open region configured to be disposed above a surface of a substrate enabling a surface of the brush when a brush is present to make contact with the surface of the substrate when a substrate is present (it is capable of being configured in such a manner), a flange along the length of the elongated enclosure extending radially outward from an outer surface of the elongated enclosure (60), the flange defining a flat bottom surface (see Figure 2) being substantially parallel to the horizontal surface of the substrate when the substrate is present (it is capable of being configured in such a manner), wherein the flange has a conduit (64, 66) connected to a vacuum source (68; Column 5 Lines 43-45) capable of removing a liquid resulting from a gap defined between a surface of the flange and a surface of a substrate (it is capable of being configured in such a manner). Regarding claim 13, the elongated enclosure has a tubular shape (see Figures). Regarding claim 16, a length of the brush enclosure is configured to extend a length of the brush (see Figures). Regarding claim 17, the open region extends over a length of the elongated enclosure (see Figures).

4. Claims 1, 4, 7-8, and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomas et al., US 5,301,387.

Thomas et al. disclose the claimed invention including a brush enclosure extending over a length (unlabeled, see Figure 1, the elongated structure with hatching that looks like \\\), the brush enclosure configured to be disposed vertically over a horizontal surface of a substrate (capable of being configured in such a manner), the brush enclosure having an open region that is configured to be disposed in proximity to the horizontal surface of the substrate (capable of being configured in such a manner), the open region capable of enabling foam from within the brush enclosure to contact the surface of the substrate when the substrate is present (capable of being configured in such a manner), the open region extending over a length of the brush enclosure (see Figures 1-2), a first flange extending outward from the brush enclosure along the length and along a first side of the open region (unlabeled, the first flange being the extension of the enclosure where 10 is located), and a second flange extending from the brush enclosure along the length and along a second side of the open region (unlabeled, the second flange being the extension of the enclosure where 11 is located), wherein a flat bottom surface of the first and second flange is substantially parallel to the horizontal surface of the substrate (see Figures, capable of being configured in such a manner), wherein the first and second flanges each have an opening extending therethrough (10, 11), the opening connected to a vacuum source (12) for removing fluid through the opening, the fluid capable of being present between the flat bottom surface and a horizontal surface of a substrate (capable of being configured in such a manner, Column 2 Lines 21-46). Regarding claim 4, the brush enclosure has a tubular shape (see Figures). Regarding claim 7, a length of the brush enclosure is configured to

extend a length of the brush (see Figures). Regarding claim 8, there is an elongated enclosure configured to enclose a brush (unlabeled, see Figure 1, the elongated structure with hatching that looks like \\\), the elongated enclosure being configured to be disposed above a horizontal surface of a substrate (see Figures, capable of being configured in such a manner), the elongated enclosure having opposite ends defining a length and having an open region along the length of the elongated enclosure (see Figures 1-2), the open region configured to be disposed above a surface of a substrate enabling a surface of the brush when a brush is present to make contact with the surface of the substrate when a substrate is present (it is capable of being configured in such a manner), a flange along the length of the elongated enclosure extending radially outward from an outer surface of the elongated enclosure (unlabeled, the flange being the extension of the enclosure where 10 and 11 are located, see Figure 1), the flange defining a flat bottom surface (see Figure 1) being substantially parallel to the horizontal surface of the substrate when the substrate is present (it is capable of being configured in such a manner), wherein the flange has a conduit (10, 11) connected to a vacuum source (Column 2 Lines 36-40) capable of removing a liquid resulting from a gap defined between a surface of the flange and a surface of a substrate (it is capable of being configured in such a manner). Regarding claim 16, a length of the brush enclosure is configured to extend a length of the brush (see Figures). Regarding claim 17, the open region extends over a length of the elongated enclosure (see Figures).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 5-6 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al., US 5,301,387.

Thomas et al. discloses all elements mentioned above, however does not disclose that the elongated enclosure is plastic.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to manufacture the enclosure of Thomas et al. to be plastic, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. In re Leshin, USPQ 416.

Allowable Subject Matter

6. Claims 18, 20, and 29-30 are allowed.
7. Claims 2 and 9-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments with respect to claims 1-2, 4-11, 13-18, 20, and 29-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Guidotti whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laura C Guidotti/
Primary Examiner
Art Unit 3723

lcg